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10/759,705

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Billy Keefer

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05/20/2008

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EXAMINER

TANG, KAREN C

ART UNIT

PAPER NUMBER

2151

MAIL DATE

DELIVERY MODE

05/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/759,705 | <b>Applicant(s)</b><br>KEEFER ET AL. |  |
|                              | <b>Examiner</b><br>KAREN C. TANG     | <b>Art Unit</b><br>2151              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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- Claims 1-27 are presented for examination.
- Prosecution is re-open due to Argument filed on Page 5-10 of the Appeal Brief filed on 9/4/07.

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 9-16, the claims and the supporting portions of the specification only have software elements. Therefore, claims 9-16 does not classify into any of the four statutory, and therefore, is rejected under USC 101.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-14, 16-22, and 24-27 are rejected under 35 U.S.C. 103(a) as being obvious over Malik et al hereinafter Malik et al hereinafter Malik (US 6,349,306) in view of Ries et al hereinafter Ries (US 6,061,724) in view of Nixon et al hereinafter Nixon (US 5,995,916)

1. Referring to Claims 1, 9, 17 and 25, Malik teaches a system for agent-based monitoring of network devices in an enterprise network with means for:

memory operable to store information associated with a plurality of network devices in the enterprise network (refer to Col 2, Lines 24-26), the information stored in the memory comprising characteristics of each of the plurality of network devices (refer to Fig 3);

selecting a network device from the enterprise network (select model, refer to refer to Col 6, Lines 4), each of the network device having characteristics (refer to Col 2, Lines 13-16, Col 3, Lines 15-17).

selecting one of a plurality of agent template based on the one or more of the characteristics of the selected network device (select template, refer to Col 7, Lines 18-20),

instantiating an agent object from the object class of the agent template (create configuration refer to Col 7, Lines 54-61), the instantiated agent object operable to monitor the network device (refer to Col 3, Lines 1-8); the device is a switch (refer to Col 1, Lines 25-28)

Although Malik disclosed the invention substantially as claimed, Malik did not explicitly teach "instantiated agent object operable to monitor hardware characteristics of the network device;"

Ries, in analogues art, disclosing "the instantiated agent object operable to monitor hardware characteristics of the network device;" (refer to Col 3, Lines 20-31 and refer to Col 1, Lines 40-56 and Col 3, Lines 1-5);

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Hence, providing functionalities disclosed by Ries, a person having ordinary skill in the art would have recognized the desirability and advantages of modifying Malik by utilizing object oriented approach to monitor network device (supported by Nixon, refer to Col 3, Lines 15-30).

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Malik by including the features presented by Ries.

Although Malik disclosed the invention substantially as claimed, Malik did not explicitly teach “the agent template comprising the hierarchy of object classes, wherein each object class corresponds to a possible combination of the characteristics of the selected network device;” Ries, in analogous art, disclosing “templates comprising the hierarchy of object classes, wherein each object class corresponds to a possible combination of the characteristics of the selected network device” (refer to Col 2, Lines 45-60).

Hence, providing functionalities disclosed by Ries, a person having ordinary skill in the art would have recognized the desirability and advantages of modifying Malik by utilizing object oriented approach to monitor network device (supported by Nixon, refer to Col 3, Lines 15-30). Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Malik by including the features presented by Ries.

2. Referring to Claims 4, 12, and 20, the method of Claim 1, the software of Claim 9 and the System of Claim 17, although Malik disclosed the limitations substantially as claimed, Malik is silent in regarding “wherein monitoring comprising retrieving information associated with one or more of the hardware characteristics of the network device.

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Ries, in analogues art, disclosing “the instantiated agent object operable to monitor hardware characteristics of the network device;” (refer to Col 3, Lines 20-31 and refer to Col 1, Lines 40-56 and Col 3, Lines 1-5);

Hence, providing functionalities disclosed by Ries, a person having ordinary skill in the art would have recognized the desirability and advantages of modifying Malik by utilizing object oriented approach to monitor network device (supported by Nixon, refer to Col 3, Lines 15-30).

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Malik by including the features presented by Ries.

3. Referring to Claims 5, 13, and 21, the method of Claim 4, the software of Claim 12 and the System of Claim 20, although Malik disclosed the limitations substantially as claimed, Malik is silent in regarding "wherein the hardware characteristics of the network device including one or more of: memory usage; chassis temperature; Central Processing Unit (CPU) usage; fan status; module status; and power supply status.”.

Ries, in analogues art, disclosing "wherein the hardware characteristics of the network device including one or more of: memory usage; chassis temperature; Central Processing Unit (CPU) usage; fan status; module status; and power supply status.”(CPU usage, refer to Col 3, Lines 20-24)

Hence, providing functionalities disclosed by Ries, a person having ordinary skill in the art would have recognized the desirability and advantages of modifying Malik by utilizing object oriented approach to monitor network device (supported by Nixon, refer to Col 3, Lines 15-30).

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Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Malik by including the features presented by Ries.

4. Referring to Claims 6, 14, and 22, the method of Claim 4, the software of Claim 12 and the System of Claim 20, although Malik disclosed the limitations substantially as claimed Malik is silent in regarding “comparing a threshold value to the retrieved information associated with one or more of the hardware characteristics.”

Ries, in analogues art, disclosing " comparing a threshold value to the retrieved information associated with one or more of the hardware characteristics." (refer to Col 15, Lines 28-30)

Hence, providing functionalities disclosed by Ries, a person having ordinary skill in the art would have recognized the desirability and advantages of modifying Malik by utilizing object oriented approach to monitor network device (supported by Nixon, refer to Col 3, Lines 15-30).

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Malik by including the features presented by Ries.

5. Referring to Claims 8, 16, and 24, the method of Claim 1, the software of Claim 9 and the System of Claim 17, although Malik disclosed the invention substantially as claimed, Malik is silent in regarding “wherein the hierarchy of object classes includes a plurality of parent objects and at least one child object associated with each of the parent objects. The parent objects corresponding to different embodiments of a first characteristic of the network device and each child object being associated with different embodiments of a second characteristic and the

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embodiment of the first characteristic that corresponds to the parent object associated with the child object”

Ries, in analogous art, disclosing “wherein the hierarchy of object classes includes a plurality of parent objects and at least one child object associated with each of the parent objects. The parent objects corresponding to different embodiments of a first characteristic of the network device and each child object being associated with different embodiments of a second characteristic and the embodiment of the first characteristic that corresponds to the parent object associated with the child object”(refer to Col 2, Lines 45-60, Col 6, Lines 5-8 and Col 17, Lines 61-67)

Hence, providing functionalities disclosed by Ries, a person having ordinary skill in the art would have recognized the desirability and advantages of modifying Malik by utilizing object oriented approach to monitor network device (supported by Nixon, refer to Col 3, Lines 15-30).

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Malik by including the features presented by Ries.

6. Referring to Claims 2, 10, and 18, the method of claim 1, the software of claim 9 and the system of claim 17, although the system disclosed by Malik shows substantial features of the claimed invention, it fails to disclosed “the network device associated with at least one Management Information Base (MIB) parameter.”

In an analogous art, Ries disclosing “the network device associated with at least one Management Information Base (MIB) parameter.”( refer to Col 11, Lines 25-26)

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Hence, providing functionalities disclosed by Ries, a person having ordinary skill in the art would have recognized the desirability and advantages of modifying Malik by utilizing object oriented approach to monitor network device (supported by Nixon, refer to Col 3, Lines 15-30).

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Malik by including the features presented by Ries.

7. Regarding Claims 3, 11, and 19, the method of claim 1, the software of claim 9 and the system of claim 17, although the system disclosed by Malik shows substantial features of the claimed invention, it fails to disclose "the agent object monitoring the network device based on the one or more MIB parameters."

In an analogous art, Ries disclosing "a system for remote management of devices in a network wherein the agent object monitors the network device based on the one or more MIB parameter" (refer to Col 11, Lines 25-26)

Hence, providing functionalities disclosed by Ries, a person having ordinary skill in the art would have recognized the desirability and advantages of modifying Malik by utilizing object oriented approach to monitor network device (supported by Nixon, refer to Col 3, Lines 15-30).

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the system of Malik by including the features presented by Ries.

Claims 1-6, 8-14, 16-22, and 24-27 are rejected under 35 U.S.C. 103(a) as being obvious over Malik et al hereinafter Malik et al hereinafter Malik (US 6,349,306) in view of Ries et al

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hereinafter Ries (US 6,061,724) in view of Nixon et al hereinafter Nixon (US 5,995,916) and Ruckley et al hereinafter Ruckley (US 6,360,277)

8. Referring to Claims 7, 15, and 23, the method of Claim 6, the software of Claim 15 and the System of Claim 22, although Malik and Ries Nixon disclosed the invention substantially as claimed, they are silent in regarding “automatically communicating an alert in response to the hardware characteristics violating the threshold value”.

Ruckley, in analogous art, disclosing “automatically communicating an alert in response to the hardware characteristics violating the threshold value.”(refer to Col 9, Lines 1-10).

Hence, providing functionalities disclosed by Ruckley, would be desirable for a user to implement in order to stay compatible with network devices.

Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the systems of Malik, Ries and Nixon by including the features presented by Ruckley.

### ***Conclusion***

**Examiner’s Notes:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of

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the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. C. T./  
Examiner, Art Unit 2151

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/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151